IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4331 OF 2004

Bhaskar Shamrao Patil ... Applicant

versus

State of Maharashtra ... Respondent

...

Mr. Naveen Chomal, for the Applicant.

Mr. K.V. Saste, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

19th October 2004

P.C.:

. Heard Counsel for the parties. Perused the record. The Applicant has approached the Court with a specific case that on the date and time of the incident, he was not present in the City of Nasik, but was on his way to New Delhi leading a delegation of his party along with some active members named in the application to meet the Home Minister in pursuance of their demand. It is also stated that the Applicant left for New Delhi at around 5.30 p.m. on 13-6-2004 by

boarding Mangala Express from Nasik Road Railway Station and reached New Delhi on 14-6-2004 in the evening and thereafter, they met the Home Minister on 15-6-2004. It is also asserted on affidavit that necessary entries in the register maintained by the Sansad Bhavan for procuring passes have also been made. Although this specific stand was taken before the Court below and has been adverted to in para 2 of the order passed by the lower Court, there is no discussion whatsoever in this behalf in the impugned decision, but the Court below proceeded to decide the matter on some other issues, which amounts to begging the question. Even before this Court, specific assertion has been made on the above terms on affidavit. The matter was adjourned in the past, but no reply has been filed controverting the above position. If it is so, merely because the Applicant has been named in the complaint, that alone cannot be the basis to proceed against the Applicant. In this peculiar position, the appropriate course is to enlarge the Applicant on anticipatory bail on the following terms.

(a) The Applicant is enlarged on

anticipatory bail in connection with CR. No. 151/2004 registered at Sarkar Wada Police Station, Nasik, on executing personal bond in the sum of Rs.25,000/- (Rupees Twenty-five thousand only) and two local sureties in the like amount.

(b) The Applicant shall abide by the conditions mentioned in section 438(2) of the Code of Criminal Procedure as applicable to the State of Maharashtra.

. Application disposed of accordingly.

. Parties to act on the authenticated copy of this order.

(A.M.KHANWILKAR,J.)